REGULATION OF INSURERS

CHAPTER 5
REGULATION OF INSURERS—GENERAL PROVISIONS

[Prior to 10/22/86, Insurance Department [510]]

191—5.1(507) Examination reports. Upon the completion of an examination a copy of the report will be furnished the company, association or society examined, whereupon the company, association or society will have 20 days in which to determine whether or not it will demand a hearing before the commissioner of insurance. If a hearing is desired, then and in that event the company, association or society shall, within said 20 days, file with the commissioner of insurance a written application, attaching thereto the specific grounds upon which a hearing is desired. Within a reasonable time after the receipt of said application, the commissioner will fix a date for the hearing and notify the company, association or society thereof. Upon the completion of the hearing, or as soon as convenient thereafter, the commissioner shall render the commissioner's decision, either orally or in writing at the commissioner's discretion and file said report as part of the records in the division.

This rule is intended to implement Iowa Code sections 505.8 and 507.2.

191—5.2(505,507) Examination for admission. Any foreign or alien insurance company seeking to be admitted to do business in the state of Iowa shall, at the discretion of the division of insurance, be subject to either or both of the following:

1. An on-site examination by the division;
2. A desk examination, if the applicant provides a financial examination report prepared by the insurance regulatory body of the applicant's state or country of domicile. The examination report must be certified by the issuing regulatory body and must have an effective date of not more than two years prior to the date of application for admission.

This rule is intended to implement Iowa Code section 507.2.

191—5.3(507,508,515) Submission of quarterly financial information. All insurers, corporations, associations, and other entities required to submit annual financial statements to the commissioner shall also submit a short form quarterly financial statement within 45 days of the close of each calendar quarter on a form as specified by the commissioner. Upon request of the commissioner an exhibit showing a count of policies in force by line of business as of the close of the quarter shall be submitted with the quarterly report. The quarterly financial statements shall also be filed with the National Association of Insurance Commissioners.

This rule is intended to implement Iowa Code section 507.2 and Iowa Code chapters 508 and 515.

191—5.4(505,508,515,520) Surplus notes. Surplus notes are recognized by the commissioner for both stock and mutual insurers. All payments of principal and interest on these notes require the prior approval of the commissioner.

191—5.5(505,515,520) Maximum allowable premium volume. A domestic property/casualty insurer shall not cause the ratio of its net written premiums to its surplus as regards policyholders to exceed three to one without the approval of the commissioner of insurance.

191—5.6(505,515,520) Treatment of various items on the financial statement. An admitted insurer shall at all times show the value of the following items on its financial statements in the following manner unless a different treatment is authorized by the state where the insurer is domiciled:

5.6(1) *Real estate.* At amortized cost.

5.6(2) *Stocks.* At market value as determined by the Securities Valuation Office of the National Association of Insurance Commissioners.

5.6(3) *Bonds.* At amortized cost, unless directed otherwise by the commissioner of insurance.

5.6(4) *Artwork.* Nonadmitted.

5.6(5) *Other assets not listed.* As treated by the applicable accounting practices and procedures manual of the National Association of Insurance Commissioners.

5.6(6) *Liabilities.* Liabilities, including active life reserves, unearned premium reserves, and liabilities for claims and losses unpaid and for incurred but not reported claims. As determined by the applicable accounting practices and procedures manual of the National Association of Insurance Commissioners.

These rules are intended to implement Iowa Code sections 505.8, 515.20, 515.49, 515.63, and 520.21.

191—5.7(505) Ordering withdrawal of domestic insurers from states. Upon a finding, after notice and opportunity for hearing, of substantial likelihood of future financial impairment of a domestic insurer due to persistent operating losses in any line of business in any state where the insurer does business, the commissioner may order a domestic insurer to withdraw and cease doing business in that line of business in that state or in the alternative, order the insurer to withdraw and cease doing business in all lines, pending further order. For the purposes of this rule, impaired or threatened financial solvency is deemed to exist where an insurer experiences a reduction of 5 percent or greater in surplus in any 12-month period from all cases, including the regulatory environment in a state.

191—5.8(505) Monitoring. Upon request of the commissioner, a domestic insurer shall provide all relevant information as to its business in any state identified by the commissioner and found by the commissioner to have a consistently oppressive and confiscatory regulatory environment: The commissioner's request shall identify the state and shall include a basis for the commissioner's findings that the state has a consistently oppressive and confiscatory regulatory environment.

191—5.9(505) Rate and form filings. Insurers doing business in Iowa shall file rates and forms in accordance with applicable law and with 191—Chapters 20, 30, 31, 34, 35, 36, 37, and 39, as applicable.

191—5.10(511) Life companies—permissible investments.

5.10(1) The phrase "preferred dividend requirements as of the date of acquisition" in Iowa Code section 511.8(6) is construed to include the dividend requirements of a new issue. Consequently, a new preferred issue will qualify if the net earnings of the corporation for each of the five preceding years have been not less than one and one-half times the sum of the annual fixed charges, contingent interest and the annual preferred dividend requirements including the new issue.

5.10(2) The phrase "the obligations are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant" in Iowa Code section 511.8(5) means "investment grade" as defined in 191—subrule 22.1(4). As a result, except as permitted by the commissioner in exceptional circumstances, corporate obligations must be "investment grade" in order to meet legal reserve requirements unless the other requirements of Iowa Code section 511.8(5)*"a"* regarding the financial condition of the issuer of the obligation are met. The legal reserve investment limitations of Iowa Code section 511.8 regarding less than investment grade obligations, but not the deposit requirements of that section, are applicable to foreign insurers.

This rule is intended to implement Iowa Code section 511.8(5).

191—5.11(511) Investment of funds.

Ruling No. R21. By Division.

The Forty-first General Assembly of Iowa amended [508 & 511](511.8) of the Code of 1924, relating to the investment of funds by life insurance companies organized in this state, by adding to paragraph one of said section the following:

"Or federal farm loan bonds issued under the Act of Congress, approved July 17, 1916."

Doubt has arisen in the minds of company officials as to whether or not the amendment in question authorizes life insurance companies organized in Iowa to invest their funds in bonds issued by joint stock land banks.

In a written opinion of the attorney general of Iowa, bearing date May 25, 1925, it is held that, inasmuch as joint stock land banks were created under the Act of Congress approved July 17, 1916, bonds issued by such banks are included in the amendment aforesaid.

Therefore, it is the ruling of this division that such bonds are a legal investment for life insurance companies organized in this state. However, said amendment is not effective until July 4, 1925, and until said date no such investments should be made.

191—5.12(515) Collateral loans. The collateral pledged to secure a loan must qualify as a legal investment for insurance companies before the loan it secures may so qualify [section 515.35(7)]. The statute provides that a company may not invest in excess of 30 percent of its capital and funds in stocks and not more than 10 percent of its capital and surplus in the stock or bonds, or both, of any one corporation.

Normally, a loan is little better than the collateral securing it. Therefore, in order to conform to the intent and purpose of the legislature it would appear that the same limitations should likewise be applied to the stock securing a collateral loan. The statute also provides that the value of the collateral must exceed the amount of the loan by 10 percent.

191—5.13(508,515) Loans to officers, directors, employees, etc. No insurance company or association of any kind, domiciled in the state of Iowa, shall loan any portion of its funds to an officer, director, stockholder, employee or any relative or immediate member of the family of an officer or director.

The provisions of Iowa Code sections 508.8 and 511.12 shall likewise be applicable to fire and casualty companies.

191—5.14(515) Salvage as an asset. Rescinded IAB 11/25/92, effective 11/6/92.

191—5.15(508,512B,514,514B,515,520) Accounting practices and procedures manual and annual statement instructions.

5.15(1) *Purpose.* The purpose of this rule is to adopt the National Association of Insurance Commissioners' accounting practices and procedures manual which has ben revised to provide a comprehensive guide to statutory accounting principles, commonly referred to as the "codification project." Additionally, the rule adopts by reference the annual statement instructions promulgated by the National Association of Insurance Commissioners.

5.15(2) *Financial statements.* Effective January 1, 2001, all information reflected in the financial statements of insurance companies authorized to do business in Iowa shall conform with the accounting practices and procedures manual of the National Association of Insurance Commissioners.

All annual financial statements filed with the commissioner shall conform to the annual statement instructions and manuals promulgated by the National Association of Insurance Commissioners.

This rule is intended to implement Iowa Code sections 508.11(43), 512B.24, 514.9, 514B.12, 515.63 and 520.10.

191—5.16 to **5.19** Reserved.

191—5.20(508) Computation of reserves. Iowa life insurance companies may report the nonadmitted excess item to this division on the basis of the true reserve instead of the mean reserve as has been the practice in the past. Under the true reserve system there will be no excess excepting in the case of indebtedness in excess of policy liabilities. The true reserve system eliminates all excess on account of due and deferred premiums, but there may be an excess equal to or in excess of the loading depending upon what premium the note represents, and how long it has been running when a premium note is taken for the gross premiums or when there is an overloan.

This concession is made to Iowa companies with the conviction that it removes many of the defects and disadvantages of the present practice of requiring the excess of the mean reserve.

As a corollary to the proposed system of determining this excess item, the business of the company must be reported upon a strictly paid for basis.

This division will not require that policies be lapsed if premium is not paid within a limited time after the due date, but no credit for an uncollected premium may be taken if more than 60 days past due, unless a premium note of the proper form has been taken therefor.

UNEARNED PREMIUM RESERVES ON MORTGAGE GUARANTY INSURANCE POLICIES

191—5.21(515C) Unearned premium reserve factors. In the case of premiums paid in advance on ten-year policies, mortgage guaranty insurers shall apply the following annual factors or comparable monthly factors in determining the unearned premium reserve:

Years policy is in force	Unearned premium factor	Years policy is in force	Unearned premium factor
1	81.8	6	18.2
2	65.5	7	10.9
3	50.9	8	5.5
4	38.2	9	1.8
5	27.3	10	-0-

191—5.22(515C) Contingency reserve. From the premium remaining after applying the appropriate factor from the table in 5.21(515C) above, there shall be maintained a contingency reserve as prescribed in Iowa Code section 515C.4.

These rules are intended to implement Iowa Code sections 515C.3 and 515C.4.

191—5.23(507C) Standards. The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the general public. The commissioner may consider:

5.23(1) Adverse findings reported in financial condition and market conduct examination reports.

5.23(2) The National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports.

5.23(3) The ratios of commission expense, general insurance expense, policy benefits and reserve increases to annual premium and net investment income which could lead to an impairment of capital and surplus.

5.23(4) The insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to ensure the company's ability to meet its outstanding obligations as they mature.

5.23(5) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer.

5.23(6) The insurer's operating loss in the last 12-month period or any shorter period of time including, but not limited to: net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders reduces such insurer's remaining surplus as regards policyholders below the minimum required.

5.23(7) Whether any affiliate, subsidiary or reinsurer of the insurer is insolvent as defined in Iowa Code section 507C.2(11), is threatened with insolvency, or is delinquent in payment of its monetary or other obligation.

5.23(8) Contingent liabilities, pledges or guarantees which either individually or collectively involve a total amount which, in the opinion of the commissioner, may affect the solvency of the insurer.

5.23(9) Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer.

5.23(10) The age and collectibility of receivables.

5.23(11) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position.

5.23(12) Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry.

5.23(13) Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer.

5.23(14) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner.

5.23(15) Whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

5.23(16) Rescinded IAB 7/10/91, effective 6/21/91.

This rule is intended to implement Iowa Code sections 507C.9, 507C.12 and 507C.17.

191—5.24(507C) Commissioner's authority.

5.24(1) For the purposes of making a determination of an insurer's financial condition under this rule, the commissioner may:

a. Disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding;

b. Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

c. Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

d. Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

5.24(2) If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may issue an order requiring the insurer to:

a. Reduce the total amount of present and potential liability for policy benefits by reinsurance;

b. Reduce, suspend or limit the volume of business being accepted or renewed;

c. Reduce general insurance and commission expenses by specified methods;

d. Increase the insurer's capital and surplus;

e. Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

f. File reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

g. Limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;

h. Document the adequacy of premium rates in relation to the risks insured;

i. File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner.

5.24(3) Any insurer subject to an order under subrule 5.24(2) may request, pursuant to rule 191—3.4(17A), review of that order. Any ensuing hearing shall not be open to the public, unless the insurer requests otherwise.

This rule is intended to implement Iowa Code sections 507C.9, 507C.12 and 507C.17.

191—5.25(505) Annual audited financial reports.

5.25(1) *Purpose*. The purpose of this rule is to improve the Iowa insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

Every insurer (as defined in subrule 5.25(2), paragraph *"c,"*) shall be subject to this rule. Insurers having direct premiums written in this state of less than $1 million in any calendar year and less than 1,000 policyholders or certificate holders of directly written policies nationwide at the end of such calendar year shall be exempt from this rule for such year (unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts or treaties of reinsurance of $1 million or more will not be so exempt.

Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from this rule if:

a. A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the commissioner in accordance with the filing dates specified in subrules 5.25(3), 5.25(10), and 5.25(11), respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance).

b. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the commissioner within the time specified in subrule 5.25(9).

This rule shall not prohibit, preclude or in any way limit the commissioner of insurance from ordering or conducting or performing examinations of insurers under the rules of the division of insurance and the practices and procedures of the division of insurance.

5.25(2) *Definitions.* As used in this rule:

"Audited financial report" means and includes those items specified in subrule 5.25(4).

"Accountant" or *"independent certified public accountant"* means an independent certified public accountant or accounting firm in good standing with the American Institute of CPAs and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

"Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

"Insurer" means a licensed insurer under Title XIII of the Iowa Code, except entities organized under Iowa Code chapters 512A, 512B, 518, and 518A.

5.25(3) *Filing and extensions for filing of annual audited financial reports.* All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 1 for the year ended December 31 immediately preceding. The commissioner may require an insurer to file an audited financial report earlier than June 1 with 90 days' advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the commissioner for 30-day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

5.25(4) *Contents of annual audited financial report.* The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the division of insurance of the state of domicile.

The annual audited financial report shall include the following:

a. Report of independent certified public accountant.

b. Balance sheet reporting admitted assets, liabilities, capital and surplus.

c. Statement of operations.

d. Statement of cash flows.

e. Statement of changes in capital and surplus.

f. Notes to financial statements. These notes shall be those required by the appropriate National Association of Insurance Commissioners (NAIC) annual statement instructions and the NAIC accounting practices and procedures manual. The notes shall include:

(1) A reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Iowa Code sections 508.11 and 515.63 with a written description of the nature of these differences.

(2) A summary of ownership and relationships of the insurer and all affiliated companies.

g. The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.)

5.25(5) *Designation of independent certified public accountant.* Each insurer required by this rule to file an annual audited financial report must, within 60 days after becoming subject to such requirement, register with the commissioner in writing the name and address of the independent certified public accountant or accounting firm (generally referred to in this rule as the "accountant") retained to conduct the annual audit set forth in this rule. Insurers not retaining an independent certified public accountant on August 28, 1991, shall register the name and address of their retained certified public accountant not less than six months before the date when the first audited financial report is to be filed.

The insurer shall obtain a letter from the accountant, and file a copy with the commissioner, stating that the accountant is aware of the provisions of Title XIII of the Iowa Code and administrative rules thereunder that relate to accounting and financial matters and affirming that the accountant will express an opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the insurance division, specifying such exceptions as the accountant may believe appropriate.

If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall within five business days notify the division of this event. The insurer shall also furnish the commissioner with a separate letter within ten business days of the above notification stating whether in the 24 months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused the accountant to make reference to the subject matter of the disagreement in connection with the opinion. The disagreements required to be reported in response to this rule include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this rule are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for the disagreement; and the insurer shall furnish such responsive letter from the former accountant to the commissioner together with its own.

5.25(6) *Qualifications of independent certified public accountant.*

a. The commissioner shall not recognize any person or firm as a qualified independent certified public accountant that:

(1) Is not in good standing with the American Institute of CPAs and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(2) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer.

b. Except as otherwise provided herein, independent certified public accountants shall be recognized as qualified as long as they conform to the standards of their profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and rules and regulations and code of ethics and rules of professional conduct of the Iowa accountancy examining board, or similar code.

c. A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under Iowa Code chapter 507C, the mediation or arbitration provisions shall operate at the option of the statutory successor.

d. No partner or other person responsible for rendering a report may act in that capacity for more than seven consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two years. An insurer may make application to the commissioner for relief from the above rotation requirement on the basis of unusual circumstances. The commissioner may consider the following factors in determining if the relief should be granted:

(1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;

(2) Premium volume of the insurer; or

(3) Number of jurisdictions in which the insurer transacts business.

The requirements of this paragraph became effective on August 28, 1993.

e. The commissioner shall not recognize as a qualified independent certified public accountant, or accept any annual audited financial report prepared in whole or in part by, any natural person who:

(1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law;

(2) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or

(3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

f. The commissioner of insurance, under 191—Chapter 3, may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing the opinion of the accountant on the financial statements in the annual audited financial report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule.

5.25(7) *Consolidated or combined audits.* An insurer may make written application to the commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report as follows:

a. Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

b. Amounts for each insurer subject to this rule shall be stated separately.

c. Noninsurance operations may be shown on the worksheet on a combined or individual basis.

d. Explanations of consolidating and eliminating entries shall be included.

e. A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

5.25(8) *Scope of examination.* Financial statements furnished pursuant to subrule 5.25(4) shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration should also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

5.25(9) *Notification of adverse financial condition.* The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the applicable minimum capital and surplus requirements of Iowa Code sections 508.5, 508.10, 515.8, 515.10 and subsection 515.12(5) as of that date. An insurer who has received a report pursuant to this paragraph shall forward a copy of the report to the commissioner within five business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive such evidence within the required five-business-day period, the independent certified public accountant shall furnish to the commissioner a copy of its report within the next five business days.

No independent public accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if such statement is made in good faith in compliance with the above paragraph.

If the accountant, subsequent to the date of the audited financial report filed pursuant to this rule, becomes aware of facts which might have affected this report, the insurance division notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU561 of the Professional Standards of the American Institute of Certified Public Accountants.

5.25(10) *Report on significant deficiencies in internal controls.* In addition to the annual audited financial statements, each insurer shall furnish the commissioner with a written report prepared by the accountant describing significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. No report should be issued if the accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall be filed annually by the insurer with the insurance division within 60 days after the filing of the annual audited financial statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.

5.25(11) *Letter furnished to insurer.* The accountant shall furnish the insurer, in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating:

a. That the accountant is independent with respect to the insurer and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the rules of professional conduct of the Iowa accountancy examining board, or similar code.

b. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as is deemed appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

c. That the accountant understands the annual audited financial report and the opinion thereon will be filed in compliance with this rule and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers.

d. That the accountant consents to the requirements of subrule 5.25(12) and that the accountant consents and agrees to make available for review by the commissioner, or a designee or appointed agent, the workpapers, as defined in subrule 5.25(12).

e. A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

f. A representation that the accountant is in compliance with the requirements of subrule 5.25(6).

5.25(12) *Definition, availability and maintenance of CPA workpapers.* Workpapers are the records kept by independent certified public accountants of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to their examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by independent certified public accountants in the course of their examination of the financial statements of an insurer and which support their opinions thereof.

Every insurer required to file an audited financial report pursuant to this rule shall require the accountant to make available for review by insurance division examiners all workpapers prepared in the conduct of the examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the insurance division, or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit workpapers and communications until the insurance division has filed a report on examination covering the period of the audit but no longer than seven years from the date of the audit report.

In the conduct of the aforementioned periodic review by insurance division examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the division. Such reviews by the division examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the division.

5.25(13) *Exemption from compliance.* Upon written application of any insurer, the commissioner may grant an exemption from compliance with this rule if the commissioner finds, upon review of the application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten days from a denial of an insurer's written request for an exemption from this rule, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with 191—Chapter 3.

Domestic insurers retaining a certified public accountant on August 28, 1991, who qualify as independent shall comply with this rule for the year ending December 31, 1992, and each year thereafter unless the commissioner permits otherwise.

Domestic insurers not retaining a certified public accountant on August 28, 1991, who qualify as independent may meet the following schedule for compliance unless the commissioner permits otherwise:

a. As of December 31, 1992, file with the commissioner:

(1) Report of independent certified public accountant;

(2) Audited balance sheet;

(3) Notes to audited balance sheet.

b. For the year ending December 31, 1992, and each year thereafter, such insurers shall file with the commissioner all reports required by this rule.

Foreign insurance shall comply with this rule for the year ending December 31, 1992, and each year thereafter unless the commissioner permits otherwise.

5.25(14) *Canadian and British companies.* In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant.

For such insurers, the letter required in subrule 5.25(5) shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner pursuant to subrule 5.25(3).

This rule is intended to implement Iowa Code section 505.8.

191—5.26(508,515) Participation in the NAIC Insurance Regulatory Information System.

5.26(1) This rule applies to all domestic, foreign and alien insurers who are authorized to transact business in this state.

5.26(2) Each domestic, foreign and alien insurer, except entities organized under Iowa Code chapters 512A, 512B, 514, 514B, 518 and 518A and those which write only in this state, who is authorized to transact insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners (NAIC) a copy of its annual statement convention blank, along with such additional filings as prescribed by the insurance commissioner for the preceding year. The information filed with the NAIC shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the NAIC.

Foreign insurers that are domiciled in a state which has a law substantially similar to the requirement in the previous sentence shall be deemed in compliance with this rule.

5.26(3) Members of the NAIC, their duly authorized committees, subcommittees, and task forces, their delegates, NAIC employees, and all others charged with the responsibility of collecting, reviewing, analyzing and disseminating the information developed from the filing of the annual statement convention blanks shall be deemed to be acting on behalf of the commissioner by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under this rule.

5.26(4) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the insurance division by the NAIC Insurance Regulatory Information System are confidential as provided in subrule 191—1.3(11), paragraph *"c."*

5.26(5) The commissioner may suspend, revoke or refuse to renew the certificate of authority of any insurer failing to file its annual statement when due or within any extension of time which the commissioner, for good cause, may have granted.

5.26(6) Electronic filing. The annual financial statement filings required of domestic insurers pursuant to Iowa Code sections 508.11 and 515.63 and the quarterly statement filings required pursuant to rule 191—5.3(507,508,515) must be filed electronically with the National Association of Insurance Commissioners. Electronic filing shall include filing via the Internet or by diskette. The electronic filing must be prepared in accordance with the NAIC Directive to Companies, Coding Conventions, Field Names and Definitions, Data Elements, and Reporting Requirements for Annual/Quarterly Statement Submission on Diskettes. Electronic filings are in addition to and due at the time of the filing of the annual/quarterly financial statement blank with the National Association of Insurance Commissioners. Diskette filings do not need to be filed with the insurance division unless the insurer is directed by the insurance commissioner to submit the filing(s) on diskette. This diskette filing requirement does not apply to entities organized pursuant to Iowa Code chapters 512A, 512B, 514, 514B, 518, and 518A.

This rule is intended to implement Iowa Code sections 508.11 and 515.63.

191—5.27(508,515,520) Asset valuation.

5.27(1) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

a. If purchased at par, at the par value.

b. If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made or, in lieu of such method, according to such accepted method of valuation as is approved by the division.

c. Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

5.27(2) The division shall have full discretion in determining the method of calculating values according to the procedures set forth in this rule, but no such method or valuation shall be inconsistent with any applicable valuation or method used by insurers in general, or any method formulated or approved by the National Association of Insurance Commissioners or its successor organization.

5.27(3) Securities, other than those referred to in subrule 5.27(1), held by an insurer shall be valued, in the discretion of the division, at their market value, or at their appraised value, or at prices determined by it as representing their fair market value.

5.27(4) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the division and in accordance with such method of valuation as it may approve.

5.27(5) Stock of a subsidiary corporation of an insurer shall not be valued at an amount in excess of the net value of the subsidiary as based upon only those assets of the subsidiary which would be eligible under Iowa Code section 521A.2 had investment of the funds of the insurer been made directly.

5.27(6) No valuations under this rule shall be inconsistent with any applicable valuation or method formulated or approved by the National Association of Insurance Commissioners.

191—5.28(508,515,520) Risk-based capital and surplus. Capital and surplus requirements in Iowa Code chapters 508, 518 and 520 are minimums. The commissioner retains the discretion to require greater amounts than set forth in those chapters when the risk-based circumstances of a particular insurer, including the type, nature and volume of business being written, require it.

191—5.29(508,515) Actuarial certification of reserves. An opinion on life and health policy and claim reserves and property and casualty loss and loss adjustment expense reserves by a qualified actuary is required in the annual statement blank for all domestic insurers under the terms and conditions contained in the annual statement instructions handbook of the National Association of Insurance Commissioners. All other provisions of the handbook shall be applicable to annual and quarterly financial statements filed with the division.

These rules are intended to implement Iowa Code sections 508.5, 508.9, 508.10, 508.11, 515.8, 515.10, 515.12 and 515.63.

191—5.30(515) Single maximum risk—fidelity and surety risks. No insurance company is permitted under the limitations of Iowa Code section 515.49 to expose itself to any risk on a fidelity or surety bond in excess of 10 percent of its surplus to policyholders, unless such excess shall be reinsured in accordance with the provisions of the statute.

191—5.31(515) Reinsurance contracts. No credit will be given the ceding insurer for reinsurance made, ceded, or renewed unless the reinsurance agreements (treaty, facultative or otherwise) substantially provide, or are amended by a supplemental contract to read in substance as follows:

In consideration of the continuing benefits to accrue hereunder to the assuming insurer, the assuming insurer hereby agrees that, as to all reinsurance made, ceded, or renewed the reinsurance shall be payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract or contracts reinsured without diminution because of the insolvency of the ceding insurer.

191—5.32(511,515) Investments in medium grade and lower grade obligations.

5.32(1) *Reason for promulgation.* The insurance division is concerned that changes in economic conditions and other market variables could adversely affect domestic insurers having a high concentration of these investments. Accordingly, the division has concluded that a limitation on the percentage of total admitted assets that a domestic insurer may prudently invest in such obligations is reasonable, necessary and required in order to carry out the division's responsibilities under relevant statutory law.

The division understands that medium grade and lower grade obligations can have a place in a well diversified portfolio. However, it is also understood that the special risks associated with these investments require a high degree of management even when they are held within an aggregate limit. While this rule will leave all domestic insurers with authority to invest a substantial portion of their assets in medium grade and lower grade obligations, the prudent management of the attendant risk will remain an essential element of such investing.

5.32(2) *Purposes.* The purposes of this rule are:

a. To protect the interests of the insurance-buying public by establishing limitations on the concentration of medium grade and lower grade obligations in which a domestic insurer can invest;

b. To regulate the acts and practices of domestic insurers with respect to the concentration of investments in medium grade and lower grade obligations. An insurer's obligations of these classifications shall not exceed the greater of those allowed in subrule 5.10(2) or Iowa Code section 515.35(4)*"e,"* whichever is applicable, or this rule.

5.32(3) *Definitions.* As used in this rule:

"Admitted assets" means the amount thereof as of the last day of the most recently concluded annual statement year, computed in accordance with rule 191—5.6(505,515,520).

"Aggregate amount" of medium grade and lower grade obligations means the aggregate statutory statement value thereof.

"Institution" means a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

"Lower grade obligations" means obligations which are rated four, five or six by the Securities Valuation Office of the National Association of Insurance Commissioners.

"Medium grade obligations" means obligations which are rated three by the Securities Valuation Office of the National Association of Insurance Commissioners.

5.32(4) *Provisions.*

a. No domestic insurer shall acquire, directly or indirectly, any medium grade or lower grade obligation of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by the domestic insurer would exceed 20 percent of its admitted assets provided that:

(1) No more than 10 percent of its admitted assets consists of obligations rated four, five or six by the Securities Valuation Office;

(2) No more than 3 percent of its admitted assets consists of obligations rated five or six by the Securities Valuation Office;

(3) No more than 1 percent of its admitted assets consists of obligations rated six by the Securities Valuation Office. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multicategory limits.

b. No domestic insurer may invest more than an aggregate of 1 percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution, nor may it invest more than one-half of 1 percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, however, may a domestic insurer invest more than 1 percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

c. Nothing contained in this rule shall prohibit a domestic insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this rule on the date on which such insurer committed to purchase that obligation.

d. Notwithstanding the foregoing, a domestic insurer may acquire an obligation of an institution in which the insurer already has one or more obligations if the obligation is acquired in order to protect an investment previously made in the obligations of the institution, provided that all such acquired obligations shall not exceed one-half of 1 percent of the insurer's admitted assets.

e. Nothing contained in this rule shall prohibit a domestic insurer from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held.

f. Nothing contained in this rule shall require a domestic insurer to sell or otherwise dispose of any obligation legally acquired prior to January 29, 1991.

g. The board of directors of any domestic insurance company which acquires or invests, directly or indirectly, more than 2 percent of its admitted assets in medium grade and lower grade obligations of any institution shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards including, but not limited to, standards for issuer, industry, duration, liquidity and geographic location.

This rule is intended to implement Iowa Code sections 511.8 and 515.35.

191—5.33(510) Credit for reinsurance.

5.33(1) *Purpose.* The purpose of this rule is to set forth the procedural requirements which the insurance commissioner deems necessary to carry out the provisions of Iowa Code sections 521B.1 to 521B.5. The actions and information required by this rule are hereby declared to be necessary and appropriate to the public interest and for the protection of the ceding insurers in this state.

5.33(2) *Applicability.* This rule shall have no applicability to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

5.33(3) *Reinsurer licensed in this state.* The commissioner shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this state as of the date of the ceding insurer's statutory financial statement.

5.33(4) *Accredited reinsurers.*

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date of the ceding insurer's statutory financial statement. An accredited reinsurer is one which:

(1) Files a properly executed Form AR-1* as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

(2) Files with the commissioner a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(3) Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement;

(4) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has not been denied by the commissioner within 90 days of its submission or, in the case of companies with a surplus as regards policyholders of less than $20 million, whose accreditation has been approved by the commissioner.

b. If the commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commissioner may upon written notice and hearing revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after January 1, 1990, if the assuming insurer's accreditation has been denied or revoked by the commissioner after notice and hearing.

5.33(5) *Reinsurer domiciled and licensed in another state.*

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which as of the date of the ceding insurer's statutory financial statement:

(1) Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable in this state;

(2) Maintains a surplus as regards policyholders in an amount not less than $20 million;

(3) Files a properly executed Form AR-1* with the commissioner as evidence of its submission to this state's authority to examine its books and records.

*Available from Insurance Division

b. The provisions of this subrule relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used herein, "substantially similar standards" means credit for reinsurance standards which the commissioner determines equal or exceed the standards of this state.

5.33(6) *Reinsurers maintaining trust funds.*

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount prescribed below in a qualified United States financial institution, as determined by the commissioner, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interests. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

b. The following requirements apply to the following categories of assuming insurer:

(1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to business written in the United States and, in addition, a trusteed surplus of not less than $20 million.

(2) The trust fund for a group of individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which $100 million shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the commissioner annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.

(3) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholder surplus of $10 billion (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trusteed surplus of which $100 million shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the commissioner annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.

c. The trust shall be established in a form approved by the commissioner. The trust instrument shall provide that:

(1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States.

(2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in trust.

(3) The trust shall be subject to examination as determined by the commissioner.

(4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.

(5) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(6) No amendment to the trust shall be effective unless reviewed and approved in advance by the commissioner.

5.33(7) *Credit for reinsurance required by law.* The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of this state, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this subrule, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

5.33(8) *Reduction from liability for reinsurance ceded to an unauthorized assuming insurer.* The commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of this state in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of any of the following:

a. Cash.

b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.

c. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as determined by the commissioner, effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

d. Any other form of security acceptable to the commissioner. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer shall be allowed only when the requirements of this rule are met, as determined by the commissioner.

5.33(9) *Trust agreements qualified under subrule 5.33(8).*

a. Definitions. As used in this rule:

"Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

"Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

"Obligations" means:

1. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported;
4. Reserves for allocated reinsured loss expenses and unearned premiums.

"Qualified United States financial institution" means an institution meeting the requirements of rule 191—32.4(508), except as permitted otherwise by the commissioner.

b. Required conditions:

(1) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as determined by the commissioner.

(2) The trust agreement shall create a trust account into which assets shall be deposited.

(3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this subrule. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subparagraph 5.33(9)*"b"*(4) must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

(4) The trust agreement shall provide that:

1. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
2. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
3. It is not subject to any conditions or qualifications outside of the trust agreement;
4. It shall not contain references to any other agreements or documents except as provided for under subparagraph 5.33(9)*"b"*(11).

(5) The trust agreement shall be established for the sole benefit of the beneficiary.

(6) The trust agreement shall require the trustee to:

1. Receive assets and hold all assets in a safe place;
2. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
3. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
4. Notify the grantor and the beneficiary, within ten days, of any deposits to or withdrawals from the trust account;
5. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary;
6. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(7) The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

(10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

(11) Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this rule, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

1. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

2. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement;

3. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer, in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in subparagraph 5.33(9)*"d"*(1) as may remain executory after such withdrawal and for any period after the termination date.

(12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subparagraph 5.33(9)*"d"*(1) so long as these required conditions are included in the trust agreement.

c. Permitted conditions.

(1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(2) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in 5.33(9)*"d"*(1)"2."

(4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

d. Additional conditions applicable to reinsurance agreements.

(1) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

1. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

2. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the laws of this state for domestic insurers, or any combination of the above provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement;

3. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

4. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent;

5. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

- To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;
- To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
- To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves;

- To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(2) The reinsurance agreement may also contain provisions that:

1. Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

- The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or
- After withdrawal and transfer, the market value of the trust account is not less than 102 percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

2. Provide for:

- The return of any amount withdrawn in excess of the actual amounts required to comply with 5.33(9)*"d"*(1)"5," first three unnumbered paragraphs, or in the case of 5.33(9)*"d"*(1)"5," last unnumbered paragraph, any amounts that are subsequently determined not to be due; and
- Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to 5.33(9)*"d"*(1)"5," third unnumbered paragraph.

3. Permit the award by any arbitration panel or court of competent jurisdiction of:

- Interest at a rate different from that provided in 5.33(9)*"d"*(2)"2";
- Court of arbitration costs;
- Attorney's fees;
- Any other reasonable expenses.

(3) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this division in compliance with the provision of this rule when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(4) Existing agreements. Any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1992, will continue to be acceptable until January 1, 1993, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable.

(5) The failure of any trust agreement to specifically identify the beneficiary as defined in subparagraph 5.33(9)*"a"*(1) shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

5.33(10) *Letters of credit qualified under subrule 5.33(8).*

a. The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subparagraph 5.33(10)*"i"*(1). As used in this paragraph, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

b. The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

c. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

d. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than 30 days' notice prior to expiry date or nonrenewal.

e. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

f. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

g. The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized pursuant to the organic laws of its chartering jurisdiction to issue letters of credit.

h. If the letter of credit is not issued by a qualified United States financial institution authorized to issue letters of credit, the following additional requirements shall be met:

(1) The issuing United States financial institution shall formally designate a qualified United States financial institution as its agent for the receipt and payment of the drafts;

(2) The "evergreen clause" shall provide for 30 days' notice prior to expiry date for nonrenewal.

i. Reinsurance agreement provisions.

(1) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

1. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

2. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

- To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;
- To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;
- To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves);

- To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

3. All of the provisions required by paragraph 5.33(10)"*i*" should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) Nothing contained in this paragraph shall preclude the ceding insurer and assuming insurer from providing for:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to 5.33(10)"*i*"(1)"2," third unnumbered paragraph.

2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the event 5.33(10)"*i*"(1)"3," fourth unnumbered paragraph, is applicable, any amounts that are subsequently determined not to be due.

(3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of 5.33(10)"*i*"(1)"2," require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.

j. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this division unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

5.33(11) *Other security.* A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

5.33(12) *Reinsurance contract.* Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subrules 5.33(4), 5.33(5), 5.33(6), 5.33(7), or 5.33(9) after the adoption of this rule unless the reinsurance agreement:

a. Includes a proper insolvency clause pursuant to Iowa Code section 507C.32; and

b. Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

5.33(13) *Contracts affected.* All new and renewal reinsurance transactions entered into after January 1, 1992, shall conform to the requirements of this rule if credit is to be given to the ceding insurer for such reinsurance.

This rule is intended to implement Iowa Code chapter 521B.

191—5.34(508) Actuarial opinion and memorandum.

5.34(1) *Purpose and effective date*. The purpose of this rule is to prescribe:

a. Requirements for statements of actuarial opinion that are to be submitted in accordance with Iowa Code section 508.36 and for memoranda in support thereof;

b. Rules applicable to the appointment of an appointed actuary; and

c. Guidance as to the meaning of "adequacy of reserves."

5.34(2) *Authority.* This rule is issued pursuant to the authority vested in the commissioner of insurance under Iowa Code section 508.36. This rule will take effect for annual statements for the year 2004.

5.34(3) *Scope.* This rule shall apply to all life insurance companies and fraternal benefit societies doing business in this state and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this state.

This rule shall be applied in a manner that allows the appointed actuary to utilize the actuary's professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the commissioner shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

This rule shall be applicable to all annual statements filed with the office of the commissioner after January 1, 2004. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with subrule 5.34(6), and a memorandum in support thereof in accordance with subrule 5.34(7), shall be required each year.

5.34(4) *Definitions*. As used in this rule:

"Actuarial opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with subrule 5.34(6) and with applicable actuarial standards.

"Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

"Annual statement" means that statement required by Iowa Code section 508.11 to be filed annually by the company with the office of the commissioner.

"Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in 5.34(5)*"c"* to provide the actuarial opinion and supporting memorandum as required by Iowa Code section 508.36.

"Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in 5.34(5)*"d."*

"Commissioner" means the insurance commissioner of this state.

"Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule.

"Qualified actuary" means any individual who meets the requirements set forth in 5.34(5)*"b."*

5.34(5) *General requirements.*

a. Submission of statement of actuarial opinion.

(1) There is to be included on or attached to page 1 of the annual statement for each year beginning with the statement filed as of December 31, 2004, the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with 5.34(6).

(2) Upon written request by the company, the commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

b. Qualified actuary. A "qualified actuary" is an individual who:

(1) Is a member in good standing of the American Academy of Actuaries;

(2) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

(3) Is familiar with the valuation requirements applicable to life and health insurance companies;

(4) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing, to have:

1. Violated any provision of, or any obligation imposed by, the insurance code or other law in the course of dealing as a qualified actuary;

2. Been found guilty of fraudulent or dishonest practices;

3. Demonstrated incompetency, lack of cooperation, untrustworthiness to act as a qualified actuary;

4. Submitted to the commissioner during the past five years, pursuant to this rule, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this rule including standards set by the Actuarial Standards Board; or

5. Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(5) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under 5.34(5)*"b"*(4).

c. Appointed actuary. An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this rule, either directly by or by the authority of the board of directors through an executive officer of the company other than the qualified actuary. The company shall give the commissioner timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements set forth in 5.34(5)*"b."* Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commissioner timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in 5.34(5)*"b."* If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

d. Standards for asset adequacy analysis. The asset adequacy analysis required by this rule shall:

(1) Conform to the standards of practice as promulgated from time to time by the Actuarial Standards Board and any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with 5.34(6);

(2) Be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

e. Liabilities to be covered.

(1) Under the authority of Iowa Code section 508.36, the statement of actuarial opinion shall apply to all in-force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 8, 9, and 10, and claim liabilities in Exhibit 11, part 1, and equivalent items in the separate account statement or statements.

(2) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Iowa Code section 508.36, the company shall establish the additional reserve.

(3) Additional reserves established under 5.34(5)*"e"*(2) and deemed not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

5.34(6) *Statement of actuarial opinion based on an asset adequacy analysis.*

a. General description. The statement of actuarial opinion submitted in accordance with this subrule shall consist of:

(1) A paragraph identifying the appointed actuary and the actuary's qualifications (see 5.34(6)*"b"*(1));

(2) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis (see 5.34(6)*"b"*(2)), and identifying the reserves and related actuarial items covered by the opinion that have not been so analyzed;

(3) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see 5.34(6)*"b"*(3))), supported by a statement of each such expert in the form prescribed by 5.34(6)*"e"*; and

(4) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see 5.34(6)*"b"*(6)).

(5) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of opinion;

2. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

3. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release;

4. If the appointed actuary chooses to add a paragraph briefly describing the assumptions that form the basis for the actuarial opinion.

b. Recommended language. The following paragraphs shall be included in the statement of actuarial opinion in accordance with this subrule. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language that clearly expresses the actuary's professional judgment. However, in any event, the opinion shall retain all pertinent aspects of the language provided in this subrule.

(1) The opening paragraph should generally indicate the appointed actuary's relationship to the company and qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should include a statement such as:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the board of directors of said insurer to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should include a statement such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the board of directors of [name of company] to render this opinion as stated in the letter to the commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph should include a statement such as:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20__. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

Asset Adequacy Tested Amounts – Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 8 A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability—Active					
F Disability—Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					
Exhibit 9 A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10 Premiums and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 10 (Column 1, Line 14)					
Exhibit 11, Part 1 1 Life (Page 3, Line 4.2)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					

Asset Adequacy Tested Amounts – Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
TOTAL RESERVES					
IMR (General Account, Page _____ Line _____)					
(Separate Accounts, Page ____ Line _____)					
AVR (Page _____ Line _____)		(c)			
Net Deferred and Uncollected Premium					

Notes:

(a) The additional actuarial reserves are the reserves established under subparagraph (2) of 5.34(5)*"e."*

(b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in paragraph 5.34(5)*"d,"* by means of symbols that should be defined in footnotes to the table.

(c) Allocated amount of asset valuation reserve (AVR).

(3) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as:

"I have relied on [name], [title] for [e.g., 'anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios' or 'certain critical aspects of the analysis performed in conjunction with forming my opinion'], as certified in the attached statement. I have reviewed the information relied upon for reasonableness."

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts in the form prescribed by 5.34(6)*"e."*

(4) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement such as:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

(5) If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph should include a statement such as:

"In forming my opinion on [specify types of reserves], I relied upon data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

The section shall be accompanied by a statement by each person relied upon in the form prescribed by 5.34(6)*"e."*

(6) The opinion paragraph shall include a statement such as:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

"1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

"2. Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

"3. Meet the requirements of the insurance law and rules of the state of [state of domicile]; and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

"4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

"5. Include provision for all actuarial reserves and related statement items which ought to be established.

"The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company. (At the discretion of the commissioner, this language may be omitted for an opinion filed on behalf of a company doing business only in this state and in no other state.)

"The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

"The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

"The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

_____

Signature of Appointed Actuary

_____

Address of Appointed Actuary

_____

Telephone Number of Appointed Actuary

_____

Date"

c. Assumptions for new issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this subrule.

d. Adverse opinion. If the appointed actuary is unable to form an opinion, then the actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then the actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

e. Reliance on information furnished by other persons. If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons upon whom the actuary is relying and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed.

f. Alternate option.

(1) Iowa Code section 508.36 gives the commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of subparagraph 5.34(6)*"b"*(6), item "3," the commissioner may make one or more of the following additional approaches available to the opining actuary:

1. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the commissioner chooses to allow this alternative, a formal written list of standards and conditions shall be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

2. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the commissioner for approval of that request have been met." If the commissioner chooses to allow this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. The statement shall remain valid until rescinded or modified by the commissioner. A rescission or modification of the statement shall be issued no later than March 31 of the year it is first effective. After that statement is issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year the opinion is to be filed. The request shall be deemed approved on October 1 of that year if the commissioner has not denied the request by that date.

3. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state."

- If the commissioner chooses to allow this alternative, a formal written list of products (to be added to the table in 5.34(6)*"f"*(1)"3," second bulleted paragraph) for which the required comparison shall be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

- If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under National Association of Insurance Commissioners codification standards adopted in rule 191—5.15(508,512B,514,514B,515,520). Gross nationwide reserves are the total reserves calculated for the total company in-force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall include at least the following:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

- The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.
- If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.
- The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Notwithstanding 5.34(6)*"f"*(1), the commissioner may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within 60 days of the request or such other period of time determined by the commissioner after consultation with the company, the commissioner may contract an independent actuary at the company's expense to prepare and file an opinion.

5.34(7) *Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary.*

a. General.

(1) In accordance with Iowa Code section 508.36, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon request but shall be returned to the company after such examination and shall not be considered a record of the insurance division or subject to automatic filing with the commissioner.

(2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of the actuary's own memorandum, memoranda, prepared and signed by other actuaries who are qualified within the meaning of 5.34(5)*"b"* with respect to the areas covered in such memoranda, and so state in their memoranda.

(3) If the commissioner requests a memorandum and no such memorandum exists or if the commissioner finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this rule, the commissioner may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commissioner.

(4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company, and the work papers and documentation of the reviewing actuary shall be retained by the commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commissioner pursuant to the statute governing this rule. The reviewing actuary shall not be an employee or a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this rule for the current year or the preceding three years.

(5) In accordance with Iowa Code section 508.36, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in 5.34(7)*"c."* The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

b. Details of the memorandum section documenting asset adequacy analysis (5.34(6)). When an actuarial opinion under 5.34(6) is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in 5.34(5)*"d"* and any additional standards under this rule. It shall specify:

(1) For reserves:

1. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant;
2. Source of liability in force;
3. Reserve method and basis;
4. Investment reserves;
5. Reinsurance arrangements;
6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;
7. Documentation of assumptions to test reserves for the following:

- Lapse rates (both base and excess);
- Interest crediting rate strategy;
- Mortality;
- Policyholder dividend strategy;
- Competitor or market interest rate;
- Annuitization rates;
- Commissions and expenses; and
- Morbidity.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(2) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;
2. Investment and disinvestment assumptions;
3. Source of asset data;
4. Asset valuation bases; and
5. Documentation of assumptions made for:

- Default costs;
- Bond call function;

- Mortgage prepayment function;
- Determining market value for assets sold due to disinvestment strategy; and
- Determining yield on assets acquired through the investment strategy.

The documentation of assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

(3) For the analysis basis:

1. Methodology;
2. Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how vigorously to analyze different blocks of business);
4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and
5. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(4) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis.

(5) Conclusion(s).

c. Details of the regulatory asset adequacy issues summary.

(1) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserves as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in-force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;
2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different from the assumptions used in the previous asset adequacy analysis;
3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;
4. Comments on any interim results that may be of significant concern to the appointed actuary;
5. The methods used by the actuary to recognize the impact of reinsurance on the company cash flows, including both assets and liabilities, under each of the scenarios tested; and
6. Whether the actuary has been satisfied that all options, whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equitylike features in any investments have been appropriately considered in the asset adequacy analysis.

(2) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

d. Conformity to standards of practice. The memorandum shall include the following statement: "Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate standards of practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

e. Use of assets supporting the interest maintenance reserve and the asset valuation reserve. An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

The amount of assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.

f. Documentation. The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

This rule is intended to implement Iowa Code section 508.36.

191—5.35 to **5.39** Reserved.

191—5.40(515) Premium tax. The fact that the companies choose to call a stipulated amount a "policy fee" and do not include it under the term of "premium" would not have the effect of exempting this income from taxation. It is most assuredly a part of the premium or income received from policyholders for business done in Iowa and thus subject to taxation.

191—5.41(508) Tax on gross premiums—life companies. In determining the gross amount of premiums to be taxed hereunder, there shall be excluded:

1. All premiums returned to policyholders or annuitants during the preceding calendar year, except cash surrender values.
2. All dividends that, during said year, have been paid in cash or applied in reduction of premiums or left to accumulate to the credit of policyholders or annuitants.

191—5.42(432) Cash refund of premium tax. A cash refund of premium tax may be made to an insurance company that has paid a premium tax payment or prepayment and demonstrates an inability to recoup the funds paid via a credit, provided that the insurance division determines that a refund is appropriate. A claim for refund is a formal request made by the insurance company or its successor in interest to the insurance division for repayment of premium tax prepayments that were paid with the insurance company's previously filed tax return. The claim for refund shall not be filed with a premium tax prepayment, annual tax payment, or with other documents or forms submitted to the division.

5.42(1) *Eligibility criteria.* Upon the written application of an insurance company or its successor in interest, the insurance division shall authorize the department of revenue to make a cash refund to an insurer if:

a. The insurance company is subject to an order of liquidation or equivalent order issued by a court of competent jurisdiction; or

b. The insurance company has not written any business in the state of Iowa for five years; or

c. The insurance company's certificate of authority is voluntarily or involuntarily surrendered or terminated; upon application for a refund, the company shall be prohibited from applying for readmission in Iowa for at least five years; and

d. The insurance company has no insurer within its holding company which could utilize the credit.

5.42(2) *Application procedure.* An insurance company may file a claim for a cash refund with the insurance division by stating in detail the reasons and facts and including supporting documents with the claim for a cash refund. These documents shall include but not be limited to:

a. A written request applying for a cash refund and identifying the address where the cash refund should be mailed;

b. A copy of the tax return from which the premium tax credit originated;

c. A copy of the liquidation order or other documentation demonstrating that the insurance company's certificate of authority has been surrendered and that the company is prohibited from applying for admission in Iowa for at least five years; and

d. A certification from the chief executive officer stating that the company has no plans for writing business in the state of Iowa and agrees to notify the insurance division before writing any business in this state if the claim for refund is made pursuant to 5.42(1)*"b."*

5.42(3) *Appeals.* If the claim for refund is denied and the applicant wishes to appeal the denial, the insurance division will consider an appeal to be timely if filed not later than 30 days following the date of denial.

5.42(4) *Statute of limitations.* Upon meeting the eligibility criteria outlined in 5.42(1), an insurance company has up to five years to file an application for a refund. A refund will not be authorized if an application is not made within this time frame.

This rule is intended to implement Iowa Code section 432.1(6).

191—5.43(510) Managing general agents.

5.43(1) The requirement that a domestic insurer submit its contracts with managing general agents for approval of the commissioner of insurance set forth in Iowa Code section 510.2 remains in effect after July 1, 1991.

5.43(2) A managing general agent shall at all times maintain a surety bond in the amount of $50,000 issued by an insurer licensed to transact business in this state for the benefit of each domestic insurer with which the managing general agent has contracted.

5.43(3) A managing general agent shall maintain an errors and omissions policy in the face amount of $250,000.

5.43(4) A third-party administrator subject to Iowa Code chapter 510 shall not be deemed to be a managing general agent.

5.43(5) The amount of claims in excess of which a person is authorized to adjust or pay for purposes of the definition of "managing general agent" in Iowa Code section 510.2A(4)*"a"*(3)*"a"* is $15,000 per claim.

DISCLOSURE OF MORTGAGE LOAN APPLICATIONS

191—5.44 to **5.49** Reserved.

191—5.50(535A) Purpose. These rules are adopted for the purpose of enforcing Iowa Code sections 535A.2 and 535A.4.

191—5.51(535A) Definitions.

5.51(1) *"Reporting financial institution"* means a person which holds a certificate of authority to act as an insurer pursuant to any provision of Title XX, Iowa Code, if the person:

a. At the beginning of a reporting period possessed assets in excess of $10 million; and

b. During a reporting period received applications for mortgage loans on residential property situated in any Iowa city with a population in excess of 50,000, as determined in the most recent census, or in any standard metropolitan statistical area.

5.51(2) *"Application"* means an oral or written request for an extension of credit that is made in accordance with procedures established by a financial institution for the type of credit requested.

5.51(3) *"Reporting period"* means the calendar year beginning January 1, 1979, and each calendar year thereafter.

5.51(4) *"Mortgage loan"* means a mortgage loan as defined in Iowa Code section 535A.1, which is secured by a primary or secondary lien against residential property located in this state.

5.51(5) *"Residential property"* means real property used or to be used for residential purposes, including single family homes, dwellings for from two to four families and individual units of condominiums and townhouses.

5.51(6) *"Residential mortgage loan"* means a mortgage loan other than a construction loan, a home improvement loan or a rehabilitation loan.

5.51(7) *"Construction loan"* means a loan for a maximum of two years for the purpose of construction.

5.51(8) *"Interest rate"* means the rate stated on the indenture.

5.51(9) *"Standard metropolitan statistical area"* means an area located wholly or partly in the state of Iowa which is designated a standard metropolitan statistical area by the United States Department of Commerce.

191—5.52(535A) Filing of reports.

5.52(1) Every reporting financial institution shall file the reports required by rule 191—5.53(535A) with the director of the Iowa housing finance authority, Des Moines, Iowa 50319, and with the commissioner of insurance, Des Moines, Iowa 50319, on or before January 15, 1980, and each year thereafter by January 15, and shall maintain a copy of each report at the office where its principal financial records are maintained for a period of five years after it is filed.

5.52(2) Reporting financial institutions shall file a report which complies with the Federal Home Mortgage Act of 1975, 12 U.S.C. 2801 to 2809, and regulations promulgated under that Act. Reporting financial institutions shall also report additional information required by rule 191—5.54(535A).

191—5.53(535A) Form and content of reports.

5.53(1) Reports required by rule 191—5.53(535A) shall be filed on Disclosure Form A* or a form similar thereto.

5.53(2) Financial institutions may submit computer printouts in lieu of the specimen form if the computer printouts contain the same information in the same sequence as on the specimen form.

5.53(3) Every report filed shall disclose the following information:

a. Name and address of the reporting financial institution.

b. Name, address and telephone number of the officer designated by the reporting financial institution to file the report.

c. Reporting period.

d. The principal amount of a loan shall be disclosed with respect to construction loan applications, home improvement loan applications, total mortgage loan applications, and residential mortgage loan applications, and the requested amount shall be disclosed with respect to construction loan applications not approved, home improvement loan applications not approved, total mortgage loan applications not approved and residential mortgage loan applications not approved. The principal and requested amount disclosures required above shall be reported separately for each census tract or zip code area.

5.53(4) Each report shall also indicate the number of persons requesting to examine the disclosure report for the previous reporting period.

*Form omitted under Iowa Code section 17A.6(3). They are available upon request from the agency.

191—5.54(535A) Additional information required.

5.54(1) Reporting financial institutions shall file with the commissioner of insurance on or before March 15 of each year Disclosure Form B or a form similar thereto the following additional information with respect to loans for the purchase of residential property made during the preceding year:

a. The number of loans approved at each of the following percentages of the appraised value of the property used as security for the loan:

(1) Less than 60 percent
(2) 60 percent to 69 percent
(3) 70 percent to 79 percent
(4) 80 percent to 89 percent
(5) 90 percent or more

b. The number of loans approved for each of the following amortization periods:

(1) Less than 10 years
(2) 10 to 14 years
(3) 15 to 19 years
(4) 20 to 24 years
(5) 25 to 29 years
(6) 30 or more

c. The number of loans made at each interest rate charged.

5.54(2) Reporting financial institutions are not required to file the additional information required by subrule 5.54(1) for any loan guaranteed in whole or part under any program of the United States or any of its agencies or instrumentalities, if:

a. The reporting financial institution made a written loan commitment for the loan at the maximum rate of interest permitted under the program at the time of the commitment, and

b. The amortization period for a loan is the maximum period permitted under the program or a shorter period established in response to a request initiated solely by the borrower, and

c. The loan is made at the maximum percentage of appraised value of the property permitted under the program or for the total amount which the borrower desired to borrow, and

d. The reporting financial institution files with the commissioner of insurance on or before March 15 of each year its verified statement, signed by an officer of the reporting financial institution, that it has made loans under such a program and that it has filed the report required by rule 5.54(2) for each such loan not exempted by this rule.

191—5.55(535A) Written complaints. Any person who has reason to believe that a financial institution has failed to comply with the provisions of Iowa Code chapter 535A or these rules may file a written complaint with the insurance division, Des Moines, Iowa 50319, or bring an action in the district court in accordance with Iowa Code chapter 535A.

These rules are intended to implement Iowa Code sections 535A.2 and 535A.4.

191—5.56 to **5.89** Reserved.

191—5.90(145) Implementation of health data commission directives. Rescinded IAB 11/15/00, effective 12/20/00.

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